



ORDINANCE NO. 2010-10

February 10, 2010 Amendment of previous Ordinance 2008-03

CITY OF TRINIDAD ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) ORDINANCE

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ARTICLE 1 – GENERAL PROVISIONS

Section 1:01 – Purpose

The Trinidad City Council hereby finds the following:

On-site Wastewater Treatment Systems (OWTS) or septic systems are prone to failure with age, out-moded design, overuse or improper installation, repair and maintenance; many of the OWTS within the City of Trinidad are old and not to current standards.

OWTS failure poses a risk to public health, safety and welfare and a potential contamination source to the surface waters, groundwater and the ocean waters within or adjacent to the City of Trinidad.

A centralized sewer system is undesirable for Trinidad because of growth-inducing impacts and unfeasible due to the high costs of land, construction and maintenance.

OWTS are a cost-effective and long term option for meeting public health and water quality goals and standards as long as they are adequately managed.

The purpose of this ordinance is to assure all OWTS in Trinidad are properly operated, regularly inspected, routinely maintained and monitored to prevent poorly functioning or failed systems and to establish a basis for an OWTS Management Program that will supplement this ordinance with specific policies and implementation measures consistent with the purposes of this ordinance.

Section 1:02 – Jurisdiction

This chapter/ordinance shall apply to all territory embraced within the incorporated limits of the City of Trinidad, County of Humboldt, State of California.

Section 1:03 – Authority

CA Water Code §13290-13291.7 and CA Health and Safety Code §5410-5416.

Section 1:04 –Liability

This chapter shall not be construed as imposing upon the City any liability or responsibility for damage resulting from the defective installation, repair, inspection or maintenance of any sewage disposal system or part thereof as herein provided, nor shall the city or any official, employee or city-designated contractor thereof be held as assuming any such liability or responsibility by reason of the inspections or work authorized herein.

Section 1:05 – Interpretation / Construction

Unless the context otherwise requires, the definitions set forth in Appendix A of this ordinance, as may be amended from time to time, shall be used in the interpretation and construction of this chapter. Words used in the present tense include the past and future. The singular number shall include the plural, and the plural shall include the singular. The word “shall” is mandatory. Words that are defined in Appendix A are italicized herein.

Section 1:06 – Adequate Sewage Disposal Required

Every person owning any building designed or used for human occupation, including residential, commercial and public buildings, shall be required to provide and maintain a properly functioning OWTS. An OWTS shall provide for the disposal of sewage in a manner that does not create a public health hazard and does not degrade surface or groundwater quality. All OWTS, both existing and new, and all

parts thereof, shall be maintained in a safe and sanitary condition at all times. The owner shall be responsible for the maintenance of such systems. Where permitted, an OWTS shall be provided for each building designed for human occupation, except that a group of legally established, detached buildings, occupying land under one or more ownerships and having a legally shared area in common, may be serviced by a single individual sewage disposal system designed to meet those collective needs.

Section 1:07 – Permits Required

It is unlawful for any person to connect to, construct, repair, replace, reconstruct, maintain, or use any OWTS in this jurisdiction except as provided for in this ordinance and unless an applicable sewage disposal permit from the Health Officer and / or operating permit from the OWTS Administrator is obtained.

Section 1:08 – Permit Fees / Program Financing

The City Council, in a manner prescribed by law, may by resolution establish and alter fees, deposits and / or charges for receiving applications, holding hearings thereon, reviewing plans and specifications, reviewing inspection reports, monitoring OWTS and water quality and issuing permits, and for performing any other service for maintaining and administering the OWTS Management Program established pursuant to this ordinance. Said fees shall be sufficient to offset the cost of implementing the Trinidad OWTS Program, including monitoring. Operating Permit(s) shall not be valid unless such fees have been paid.

Section 1:09 – Health Officer

The position of Trinidad Health Officer is hereby established to enforce the Trinidad Sewage Disposal Regulations. This is the technical position of the Trinidad OWTS Program. The Health Officer shall be responsible for establishing regulations (§1:11), enforcing regulations in conjunction with the Building Official, for advising the OWTS Administrator (§1:10) on technical issues and those relating to public and environmental health and safety, and to ensure that all installations, repairs, modifications and other activities related to OWTS are in compliance with State Law, the North Coast Basin Plan and this Ordinance.

Section 1:10 – Program Administration / OWTS Administrator

The position of OWTS Administrator is hereby established to enforce the provisions of this ordinance. The City OWTS Administrator shall be responsible for coordinating activities between the City, the Health Officer, the Qualified Service Provider, and the property owner, for keeping a list of verified Qualified Service Providers, for receiving and reviewing permit applications, OWTS Owner/User's Questionnaires and inspection reports, for upkeep of the database, for issuing operating permits and for assuring provisions of this ordinance are being met or taking the necessary steps to assure the purposes of this ordinance are being met.

Section 1:11 – Sewage Disposal Regulations

The Health Officer shall issue such regulations as deemed necessary to carry out the provisions of this chapter. The Sewage Disposal Regulations issued by the Health Officer under this section shall become effective when adopted by resolution of the City Council and shall be incorporated into this ordinance as Appendix C. Regulations issued under this section may be amended from time to time by the Health Officer after resolution by the City Council.

Section 1:12 – OWTS Guidelines

This ordinance shall be supplemented with guidelines to aid in the interpretation and implementation of the ordinance and to allow for adaptive management of the OWTS Program. The Guidelines shall become effective when adopted by resolution of the **City Council** and shall be made a part of this

ordinance as Appendix B. Guidelines issued pursuant to this section may be amended from time to time as needed by staff after **City Council** approval to provide clarification to these ordinance provisions.

ARTICLE 2 – SPECIFIC PROVISIONS

Section 2:01 – Leachfield Protection During Construction

Construction related activities for development are to occur in a manner that does not impact the integrity of the primary or reserve sewage disposal areas.

Section 2:02 – Reserve Area Required

All new and modified OWTS and repairs shall be required to receive approval from the Health Officer for a suitable 100% reserve leachfield area unless an exception is granted by the Health Officer. As part of any application for Design Review, Coastal Development Permit or any other discretionary permit, the applicant may be required to receive approval for a suitable 100% reserve area at the discretion of the Health Officer. Parcels with less than 100% reserve area shall be regulated as Nonstandard Systems.

Section 2:03 – Effluent Filters/Risers

All new OWTS shall be required to install risers at grade at all access points and an effluent filter as part of the construction. All existing OWTS shall be required to be equipped with risers at all access points and an effluent filter prior to, or at the time of, the first scheduled performance inspection (Article 4) as dictated by the OWTS Operating Permit. The OWTS Administrator or Health Officer can issue exceptions for existing systems in cases where risers would be inappropriate, or infeasible as long as the OWTS is reasonably accessible.

Section 2:04 – Roof Drainage away from OWTS

All roof drainage downspouts on buildings shall be directed in such a manner that runoff does not negatively impact the function of any OWTS.

Section 2:05 – Landscaping

Landscaping shall not be allowed to interfere with OWTS components, including the tank and leachfield area. If vegetation is found to be interfering with the performance of any OWTS component(s), the OWTS Administrator or Health Officer may order such vegetation to be removed from the area of concern.

Section 2:06 – Deed Restrictions

As part of the approval of any coastal development permit for development that affects the OWTS as determined by the OWTS Administrator, the property owner(s) shall be required to record a statement on the deed, in a form approved by the City Attorney, indicating that any increase in the number of units or bedrooms above that approved by the City, or in excess of the design capacity of the OWTS, will require City approval of adequate sewage disposal capabilities. Deed restrictions should be revised to reflect any system modifications.

Section 2:07 – Subdivisions

Prior to the approval of any subdivision or lot line adjustment, the applicant must apply for and obtain approval from the Health Officer for the design of an OWTS for each lot adequate for the use for which the property is designated.

ARTICLE 3 – SEWAGE DISPOSAL PERMITS

Section 3:01 – General

No person shall construct, reconstruct, or undertake any repair, addition, or modification of any OWTS or any portion thereof on any property within the City Limits without having first obtained a permit to do so from the Health Officer. This provision shall not apply to emergency work necessary due to the immediate failure of an existing system, when it shall be proved to the satisfaction of the Health Officer that such work is urgently necessary and that it is not practical to obtain a permit before commencement of the work. In all such cases, prior approval shall be obtained from the Health Officer, and an application for permit must be submitted within three business days after commencement of the work. Minor maintenance, as defined in Appendix A, may be made without permit.

Section 3:02 – Application Process

Each application for a permit to construct or repair an OWTS shall be made on a Sewage Disposal Permit Application form provided and / or approved by the Health Officer and accompanied by the appropriate fee as set forth by the City Council per §1:08. The City Clerk shall be responsible for receiving applications and forwarding them to the Health Officer. The application shall not be considered complete until all the information requested by the City Clerk and / or Health Officer has been submitted. The Health Officer may require changes to the proposed design of a system in order to conform to applicable regulations. The Health Officer shall approve or deny an application within 60 days of a complete application submittal. A written record of the Health Officer's decision shall be provided to the applicant. Appeals shall be in accordance with §8:10. A permit to construct or repair shall expire if work has not started within one year of permit approval and / or has not passed final inspection within two years of permit approval, unless an extension is granted by the Health Officer.

Section 3:03 – Licensing Requirements

All OWTS within the City Limits shall be designed by a qualified professional as deemed adequate by the Health Officer. All work done pursuant to a sewage disposal permit shall be done by or under the supervision of a person holding an appropriate license or other qualification, such as a contractor, pursuant to state law.

Section 3:04 – Design and Construction Standards

The siting, design and construction of new, and the repair and modification of existing OWTS, shall be in accordance with current standards of the Trinidad Sewage Disposal Regulations and criteria of the North Coast Regional Water Quality Control Board Basin Plan. Repairs and modifications that do not bring the entire OWTS up to current standards, but which increase conformance or improve performance, shall be allowed at the discretion of the Health Officer in accordance with the Trinidad Sewage Disposal Regulations, this ordinance, and the OWTS Program Guidelines.

Section 3:05 – Conformance and Final Inspections

In addition to any inspections performed by the designer, all work for which a construction/repair permit is required shall be subject to, at the minimum, a final inspection by the Health Officer or his representative in order to determine if such work conforms to the approved application, plans and specifications. Additional inspections during construction may be required at the discretion of the Health Officer. All such work shall remain accessible and exposed for inspection purposes until inspected and approved and it shall be the responsibility of the owner or authorized agent to assure that required inspections are obtained. Should such work not be accessible for inspection, neither the City nor its employees and officers shall be liable for the expense entailed in the removal or replacement of any material required to allow inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or other laws, ordinances or regulations. In the event that the Health Officer determines that there has been an improper installation or repair or other work on an

OWTS, a stop-work-order may be posted on the job site. Before any further work is done on the site, clearance from the Health Officer must be obtained.

ARTICLE 4 – PERFORMANCE INSPECTIONS

Section 4:01 – Initial Inspections for Existing Systems

All existing OWTS three years or older at the time this ordinance is adopted, and which have not had an inspection within the last three years, shall be subject to an initial on-site inspection, in accordance with this ordinance and the OWTS Inspection Report Form as approved by the Health Officer and / or OWTS Administrator, by a Qualified Service Provider at the expense of the OWTS Owner / User. Initial inspections shall be conducted in the same manner as performance inspections.

Section 4:02 - Initial Inspection Schedule

Initial inspections for all OWTS over three years of age within City limits shall be completed by December 31, 2008. For existing systems less than three years of age, an initial inspection shall be required within 90 days, of the system becoming three years old (from the time of final inspection when installed), or December 31, 2008, whichever is later. For those systems that were inspected prior to the adoption of this ordinance under the City's 'early bird' special, initial inspections shall be completed within 3 years and 6 months after the date of the early bird inspection.

Section 4:03 – Inspection Forms and Database Development

A standard OWTS Inspection Report Form and OWTS Owner / User Questionnaire shall be developed by the OWTS Administrator and a record maintained by the City for each OWTS inspected. This form shall include information regarding the condition of the system and changes that have occurred since the last inspection and any other pertinent information. The property owner shall provide the OWTS Administrator and / or Qualified Service Provider, with any pertinent information that the property owner (or their septic pumper or installer) has regarding the use, age, location, maintenance history, design, etc of the OWTS as part of the OWTS Owner / User Questionnaire. The OWTS Inspection Report shall be completed by the Qualified Service Provider at the time of initial or performance inspection; the property owner shall be provided a copy of this report. Using inspection data and other available information, the City shall develop and maintain a database of all OWTS within the City limits.

Section 4:04 – Performance Inspections

Performance inspections shall be conducted by a Qualified Service Provider at the expense of the owner and in the same manner as the initial inspection to check the performance of the system relative to normal operating criteria, public health and water quality standards as outlined in this ordinance and the OWTS Guidelines (Appendix B) and in accordance with the OWTS Inspection Report Form. Such inspection shall be arranged by the owner with a qualified service provider, within thirty (30) days of the date stipulated in the operating permit (Article 5). If pumping is also required, these inspections shall be conducted prior to, or at the time of, pumping as determined by the maintenance schedule provided in the operating permit (Article 5). Results shall be provided to the City and to the owner. Results may be appealed in accordance with the appeal procedures of section 8:12 of this ordinance.

Section 4:05 – OWTS & Water Quality Monitoring Program

A water quality monitoring program shall be developed as part of the City's OWTS Management Program. The City shall maintain a Monitoring Program and Quality Assurance Project Plan (QAPP), and make it available to the public. Where an inspection indicates that an OWTS is not functioning properly or water quality sampling indicates that there may be a problem, sampling wells may be required to be installed by the property owner in and around an OWTS as part of the issuance and terms of an operating permit. If

deemed necessary by the OWTS Administrator, water samples shall also be collected and analyzed as part of a performance inspection.

Section 4:06 – Performance Standards

During a performance inspection, the Qualified Service Provider shall determine whether the OWTS adversely affects the public health and environment or violates any other applicable rules or regulations. This evaluation shall be detailed enough to determine whether the OWTS structure and its operational status are in substantial conformance with the standards of this Ordinance, the City's OWTS Management Program Guidelines and the North Coast Regional Basin Plan and other applicable laws and regulations. OWTS repairs and modifications may be required if the OWTS Administrator or Health Officer determines that the OWTS is not functioning or performing in accordance with this ordinance and / or the City's overall OWTS Management Program or other applicable laws and regulations. Guidance for Performance Standards shall be provided in Appendix B – Guidelines.

Section 4:07 – Accessibility for Inspections

OWTS shall remain accessible at all times. The owner shall maintain the OWTS so that it is readily accessible for inspection and maintenance. The placement of structures, swimming pools, patios, driveways, or other impervious surfaces over the septic tank or leachfield is prohibited. Exceptions for unusual circumstances and existing systems may be considered by the Health Officer and / or OWTS Administrator.

ARTICLE 5 – OPERATING PERMITS

Section 5:01 – General

Upon application and completion in conformance with this code and final inspection of work performed pursuant to a Sewage Disposal Permit, or after Initial / Performance inspections of existing systems, all owners shall be required to apply for an Operating Permit. An Operating Permit shall be required in addition to any other permits required by City ordinances and / or State law. Operating Permits shall be issued to the owner of the property and / or the business owner. After December 31, 2008, or as specified in §4.02, it shall be unlawful and a public nuisance to use or operate any OWTS within the City without a valid operating permit from the City. Every operating permit shall indicate the design capacity of the system, maintenance requirements and any other conditions of use (see §5:04). A copy of said operating permit, with conditions, shall be sent to the property owner and shall be kept on file with the City. It is the responsibility of the property owner to ensure that any tenants conform to the conditions of use specified in the Operating Permit. In cases where an initial / performance inspection indicates a system operating at less than a satisfactory capacity, a limited operating permit may be issued.

Section 5:02 – Application Process

Every person owning any building designed or used for human occupation existing on the effective date of this ordinance, including residential, commercial and public buildings, or their authorized representative, shall be required to apply for an Operating Permit through the City Clerk's office prior to final inspection of a new or modified sewage disposal system or after an initial / performance inspection of existing systems.

Section 5:03 – Permit Transfer

In the event of the sale of the property or change in business or rental occupancy, an Operating Permit Transfer shall be applied for by the residence owner / business occupant within 60 days of the finalization of the sale of the property or change in occupancy. An administrative fee, as set by resolution of the City Council, may be charged to offset the costs to the City for transferring permits.

Section 5:04 – Permit Conditions

Maintenance schedules and requirements (Article 6) shall be stipulated in the operating permit. An operating permit shall be conditioned upon the proper maintenance and pumping of, and the continued proper operation of the OWTS as designed, constructed and conditioned as stated in the operating permit, upon payment of periodic permit fees, upon periodic inspections of said OWTS, upon continuation of the use for which the system was designed or capable of and upon continued performance as indicated by subsequent performance inspections and the City's water quality monitoring program. The Permit holder shall show proof of the required maintenance and operation as stipulated in the Permit conditions in the form of an Inspection Report Form in order to renew said Permit. Operating Permit conditions may be appealed in accordance with §8:10.

Section 5:05 – Permit Renewal

Operating permits shall be renewed every three years, or as specified in the permit based on the specific condition of and maintenance requirements of the system, but in no case shall an operating permit be issued for more than five years. Operating permits are to be renewed after a performance inspection by a qualified service provider at an interval as specified in the operating permit and maintenance schedule (Article 6). The process for renewing operating permits shall be the same as for the original application as set forth in §5:02.

ARTICLE 6 – MAINTENANCE

Section 6:01 – Maintenance Requirements

All OWTS within City limits shall be required to be adequately maintained based on the type and amount of use and the design of the system as part of the conditions of an operating permit. Required maintenance shall include, at a minimum, regular inspections (Article 4) and pumping of solids at intervals not to exceed 5 years. Depending on the type of system, other maintenance may include, but is not limited to, switching the distribution to the leachfield and flushing of effluent filters. Following each inspection of an OWTS by the qualified service provider, the OWTS Administrator will be given a copy of the Inspection Report Form and OWTS Owner/User's Questionnaire indicating the condition of and the recommended maintenance requirements for that particular system.

Section 6:02 – Maintenance Schedule

The Health Officer and / or OWTS Administrator shall determine the maximum allowable period for the maintenance and pumping requirements for each system. The basis for maintenance schedules shall be detailed in the OWTS Guidelines (Appendix B) and shall consider things such as, but not limited to, the size and design of the tank, number of bedrooms, number of people living in the house, age of system, proximity to streams and other sensitive resources, amount of water use, and the results of performance inspections. When it is time for a system to be reinspected, the system's owner will be notified by the OWTS Administrator of the need to do so. Once inspected, a completed inspection form by a qualified service provider must be presented to the OWTS Administrator by the homeowner or business owner. The resulting maintenance schedule as determined by the OWTS Administrator and / or Health Officer shall supersede any existing or previous maintenance schedule that may be / have been in effect.

Section 6:03 – Changes in Inspection or Maintenance Schedule

The OWTS Administrator, with due cause and upon written notification to the landowner, may change the inspection and/or maintenance requirements and schedule of an OWTS, where such a change is deemed necessary for the proper functioning of the OWTS. This may occur due to circumstances such as changes in household occupancy, seasonal use, rental status, water consumption, system functioning, site characteristics or other significant elements of the inspection report.

Likewise, the OWTS Owner/User may petition the OWTS Administrator to alter the inspection and/or maintenance schedule. The owner must demonstrate, through the use of appropriate site data and household information, that such a change in the requirements would still ensure the proper operation of the OWTS and fulfill the intent of this ordinance. Information to be used by a OWTS Owner/User in the petition may include OWTS inspection records, technological modifications and site data such as soils, water table, household information, seasonal use, water use, etc.

ARTICLE 7 – NONSTANDARD SYSTEMS / SPECIAL CIRCUMSTANCES / MODIFICATIONS OR REPAIRS REQUIRED

Section 7:01 – Transfer of Property

Upon transfer or sale of property within the City of Trinidad, the OWTS for that property shall be assessed at the time of Operating Permit transfer by the City for its compliance with current standards of the Trinidad Sewage Disposal Regulations and this ordinance. If the OWTS is determined to be nonconforming system, or if it was determined to be functioning at a less than Satisfactory level at the time of the most recent inspection, then upgrades to current standards may be required prior to a full operating permit being issued for the new owner in accordance with §7.06. Exceptions may be made by the OWTS Administrator or Health Officer for special circumstances such as if the lot is too small to accommodate a conventional system.

Pursuant to CA Civil Code §1102.6a the City of Trinidad hereby requires that this OWTS Ordinance be disclosed to prospective buyers of any real property within the City limits of the City of Trinidad in a form approved by the State of California. Local Realtors and Real Estate Agents shall be notified of these provisions through the Humboldt County Association of Realtors and informational packets sent to Realtors and Agents in the Area. The City may monitor homes for sale within City limits to ensure the appropriate information is disseminated.

Section 7:02 – Building Alterations / Development

Whenever any person submits an application to the City for a Coastal Development Permit or a Building Permit for the purpose of making any alterations to, or enlargement of, any structure which meets the definition of "Development" as set forth in Appendix A, said applicant must demonstrate that the existing OWTS meets the requirements set forth in the Trinidad OWTS Program. Determination of whether or not an OWTS substantially complies with this code is within the joint discretion of the OWTS Administrator and the Health Officer, with the Health Officer having final say in case of a disagreement.

Section 7:03 – Nonstandard OWTS

- A. Operating Permits for Nonstandard Systems. Nonstandard systems include alternative systems, nonconforming systems, haulaway systems and failed systems. The Health Officer or OWTS Administrator may approve the use of nonstandard system designs which are not in conformance with the standard system requirements specified in this Chapter and / or the Trinidad Sewage Disposal Regulations, provided measures are taken to maintain the proper function of such systems as specified in Subsection E.
- B. Failing Systems. The Health Officer may allow the continued use of an existing system which has been determined to be failing, if, due to extreme circumstances, that system cannot be upgraded to meet the standards specified in this Ordinance or the Trinidad Sewage Disposal Regulations, and the owner/agent takes measures which will ensure the minimum proper function of such system as specified in Subsection E and Article 8 of this Ordinance.
- C. Nonconforming systems. Those systems which were legally established, but which do not conform to current standards shall be regulated as nonstandard systems, except those systems with only minor nonconformance that does not affect the functioning of the system, such as not meeting setbacks.

- D. Alternative Systems. All existing alternative systems, or those serving new or expanded development as provided for in the Trinidad Sewage Disposal Regulations shall be considered Nonstandard Systems and shall be required to meet the nonstandard system requirements specified in Subsection E.
- E. Requirements. Use of a nonstandard system shall be subject to the following requirements:
1. The OWTS Administrator shall record a Notice of Nonstandard System on the property deed as specified in §7.04.
 2. The property owner shall maintain the system, monitor system performance, utilize required water conservation measures, comply with any special requirements established as a condition for approval of the Operating Permit for the use of that specific system and/or specified in the Notice of Nonstandard System, and if necessary, take measures deemed necessary by the Health Officer to protect public health and safety and the environment.
 3. Nonstandard systems shall be required to have a valid maintenance contract with a qualified service provider to ensure that the above conditions are satisfied. Operating permits for nonstandard systems shall not be issued for more than two years, unless the Health Officer and / or OWTS Administrator determines that an alternative schedule is warranted.
 4. If an inspection or other information reveals that the system is functioning at a less than satisfactory level and/or is not in compliance with requirements specified in the Operating Permit, the property owner may be subject to a violation fee and will be required to upgrade the system and/or modify operation as necessary to ensure proper function and operation.
 5. Properties served by nonstandard systems may be charged higher Operating Permit fees, as established by resolution of the City Council, to offset the additional costs of reviewing Inspection Reports. The OWTS Administrator may waive the extra charge for systems which meet all standards except adequate expansion area and which continues to perform adequately.
 6. The Health Officer and / or OWTS Administrator shall establish policies and procedures for use of nonstandard systems in addition to these enumerated herein.
- F. Owner Acceptance of Requirements. Before the OWTS Administrator approves a permit for the use of a Nonstandard System, the owner of the property must enter into an agreement with the City of Trinidad acknowledging and accepting the requirements for use of a Nonstandard System as described above.

Section 7:04 – Notice of Nonstandard System

- A. Requirement. A Notice of Nonstandard System shall be recorded by the OWTS Administrator with the County Recorder's Office on the deed of any property served by an approved Nonstandard System as described in Section 7.03. The Notice of Nonstandard System will include all the information as specified in the Guidelines.
- B. Expungement. If the system is eventually modified under approved permit(s) to meet the requirements for a standard system, the OWTS Administrator shall, upon payment by the property owner of fees for expungement, record a Notice of Expungement for the Notice of Nonstandard System with the County Recorder.

Section 7:05 – Accessory Dwelling Units

- A. Illegal Accessory Dwelling Units: When an inspection, or other information, reveals that an OWTS has been connected to an illegal accessory dwelling unit and is accepting wastewater from that unit, the

Building Official or OWTS Administrator may order the immediate discontinuance and disconnection of the illegal accessory dwelling unit and / or require the property owner to submit an application to the City for an Accessory Dwelling Unit. If such application is not submitted within 30 days of written notice, the OWTS Administrator and / or Building Official shall commence Nuisance Abatement procedures according to City ordinances.

- B. Nonconforming Accessory Dwelling Units: Nonconforming accessory dwelling units shall be assessed for their conformance with both City land use regulations as well as the requirements of this chapter. An OWTS serving nonconforming accessory dwelling units shall be considered a 'non-standard system,' subject to the requirements of §7.03. These systems shall be subject to increased monitoring and maintenance requirements according the OWTS Management Program Guidelines. In order to ensure these systems are not being overused, limitations on the amount of wastewater entering the system may be enacted; the amount of water use per month should be used to track the amount of wastewater and monitoring wells may be installed. In addition, modifications may be required such as installation of water saving plumbing devices, removal of garbage disposals or other means to protect the integrity of the OWTS.

Section 7:06 – Modifications / Repairs Required

Modifications and repairs of nonconforming and failing systems shall be required in the following situations:

1. In the case of a failing or inadequately functioning systems, when public health and environmental safety is threatened (Guidelines §7.06 and Ordinance §8.04);
2. When property ownership or business occupation is transferred (Guidelines §7.01);
3. When building or site alterations are made under a Coastal Development or Building Permit (Guidelines §7.02);
4. Other situations where the Health Officer and / or OWTS Administrator deems it necessary to protect public health and the environment (Guidelines §7.06).

Guidelines for determination of when an OWTS needs to be repaired or modified shall be detailed in the OWTS Management Program Guidelines (Appendix B), herein incorporated by reference. Determinations shall be made by the Health Officer and / or OWTS Administrator as appropriate and are appealable according to §8:12.

ARTICLE 8 – ENFORCEMENT

Section 8:01 –Public Nuisance Declared

A poorly functioning or failed OWTS, as defined in Appendix A is hereby declared a public nuisance and subject to Trinidad's Nuisance Abatement Ordinance (Municipal Code Chapter 8.12). In addition, an OWTS being operated or used without the proper operating permit or in conflict with the conditions or limitations of the operating permit, or being constructed, altered or repaired without the appropriate sewage disposal permit is hereby declared a public nuisance.

Section 8:02 – Investigative Powers

In addition to the investigative powers provided in the City's Nuisance Abatement Ordinance, the following shall apply for OWTS related nuisances. The Health Officer and / or Building Inspector may, upon reasonable cause to believe that a violation of any provision of this Chapter or a threat to the public health or environment may exist, investigate to determine whether such a violation or threat does in fact exist. Representatives of the City or Health Officer, after providing at least a seven day notice and upon exhibiting proper credentials and identification, shall be permitted to enter private property during normal business hours to inspect, investigate and take samples related to the performance of the OWTS as required by the provisions of this ordinance. If the inspection requires the entry into a building or an area that is designed for privacy, then prior permission shall be obtained from the owner or occupant. If

necessary under the circumstances, an inspection warrant may be obtained pursuant to Title 13 of Part 3 of the Code of Civil Procedure to obtain right of entry for such purposes.

Section 8:03 – Violations

In the event of a violation of the provisions of this Chapter, the conditions of any permit issued under this Chapter, or any requirements specified in a Notice of Nonstandard System, the Health Officer, OWTS Administrator or other City Official may commence nuisance abatement proceedings according to the City's Nuisance Abatement Ordinance (Chapter 8.12 of the Municipal Code) and / or State Law in addition to remedies provided for within this Chapter. If the violation constitutes an immediate threat to human safety or environmental welfare, then Summary Abatement may be utilized.

Section 8:04 – System Failure

If an inspection and / or pumping record or other information reveals a poorly functioning or failing OWTS, the Health Officer, OWTS Administrator and / or Building Inspector shall immediately commence nuisance abatement procedures. Failed systems constitute an immediate threat to public health and safety, and summary abatement may be appropriate. In addition to the procedures provided in the City's Nuisance Abatement Ordinance, abatement of failing systems shall include short-term mitigation and permanent corrective measures. At a minimum, short-term mitigation shall include immediate pumping as outlined in §8:06, reduction of effluent flows (§8:05) and the posting of any areas subject to the surfacing of inadequately treated sewage effluent. Permits for repairs of failing systems may be expedited by the Health Officer or OWTS Administrator by waiving some of the permit requirements or making some retroactive.

Section 8:05 – Order to Reduce or Discontinue Use

Whenever any parcel or building regulated by this code is being used contrary to the provisions of this code or discharge of waste emanates there from in violation of this code, the Health Officer and / or OWTS Administrator may order such use or discharge discontinued or reduced, and / or the parcel or building or portion thereof vacated by serving a written notice on the property or any person causing such use to be continued. The Health Officer shall notify the property owner / permittee to suspend immediately use of the sewage disposal system, and those uses of the real property which are likely to result in the generation of sewage. Such person shall discontinue the use and / or vacate the parcel or building or portion thereof within the time prescribed within the notice.

Section 8:06 – Immediate Need to Pump

If an inspection, or other information reveals that an OWTS needs immediate pumping, the Health Officer and / or OWTS Administrator attempt to notify the property owner or occupant immediately in person or by phone, and shall send the owner, or owner's agent a written notice to have the tank immediately pumped. The owner, or owner's agent, five (5) days from the date of first notification to pump the system and to present evidence of such pumping to the Health Officer in the form of a receipt from a qualified service provider. If proof of system pumping required under this section is not received by the City within a timely manner the Health Officer or OWTS Administrator will contract with a private hauler to pump the OWTS and the owner will be billed by the City according to the Summary Abatement procedures of the City's Nuisance Abatement Ordinance (§8.12.060 of the City's Municipal Code). The bill will include the actual cost of pumping as well as associated administrative costs. The owner will be notified in writing of the intended date and time of such pumping.

Section 8:07 – Stop Work Orders

Whenever any maintenance, repair, replacement, or any construction work is being done contrary to the provisions of this code or other pertinent laws or ordinances implemented through the enforcement of this code, the Health Officer, OWTS Administrator and / or Building Inspector may order the work stopped by notice in writing, posted on the property or served on any such person engaged in doing or causing such

work to be done, and any such persons shall forthwith stop such work until authorized by the Health Officer and / or OWTS Administrator to proceed with the work.

Section 8:08 – Construction/ Repair Permit Revocation/Suspension

- A. Any OWTS construction/repair permit may be revoked or suspended by the Health Officer and / or OWTS Administrator if it is determined that a violation of this ordinance or the Trinidad Sewage Disposal Regulations exists or that the permit was obtained by fraud, misrepresentation or material omission. Prior to revoking or suspending the permit, the Health Officer and / or OWTS Administrator must cause written notice shall be given, according to §8.12.080 of the City's Nuisance Abatement Ordinance, to the permittee and to the occupant of the property. The notice shall specify the violation(s) and the work to be done to correct the violation(s) and shall allow thirty days to complete the work. The notice shall also inform the permittee that he/she has the right to an informal hearing before the Health Officer and / or OWTS Administrator.
- B. The notice of revocation or suspension shall inform the permittee of his right to a hearing before the City Council if the permittee files an appeal with the City Council pursuant to section 8:12.
- C. The suspension or revocation of any permit shall not be effective until ten days after notice thereof in writing is mailed to the permittee.

Section 8:09 – Operating Permit Revocation

When it has been determined that an OWTS for which an operating permit has been issued is being operated in violation of this code or conditions of the operating permit, operating in a manner not consistent with its design (such as frequently exceeding the design average or maximum daily flow rate), or is discharging wastewater in a manner which is, or may result in, the contamination of surface water, ground water, or the contiguous seashores of the City, or which contains components that do not conform to this code, or to which access for inspection has been denied, the operating permit may be revoked upon written notice to the owner. If the owner, upon receipt of said notice revoking the operating permit does not appeal as provided in Section 8:12 herein below, or upon appeal the City Council determines that the revocation shall be upheld, and enforcement actions, including nuisance abatement shall be immediately commenced.

Section 8:10 – Appeal Process

- A. Any person affected by an approval, denial, suspension, or revocation of a construction/repair or operating permit (other than a stop work or failure determination, etc. as provided in §8.05 – §8.07) by the Health Officer and / or OWTS Administrator may appeal to the City Council by filing a notice of appeal with the clerk of the City within ten working days of the action of the Health Officer and / or OWTS Administrator. The notice of appeal shall be accompanied by a filing fee set by resolution of the City Council of the City on an amount sufficient to cover costs. The appeal shall stay the effect of the action of the Health Officer and / or OWTS Administrator.
- B. The appeal shall be in writing and addressed to the City Council. The applicant shall file the appeal with the City Clerk and shall provide additional copies of the appeal for the Health Officer and / or OWTS Administrator on the day of filing with the clerk of the City. The City Clerk shall forward copies of the appeal to the City Council, Health Officer and / or OWTS Administrator. In the notice of appeal the appellant shall state in full the facts and circumstances which make the action of the Health Officer and / or OWTS Administrator unreasonable. It shall also state the date of the claimed unreasonable action of the Health Officer and / or OWTS Administrator.
- C. The City Council shall cause the matter to be set for hearing not earlier than twenty days after the appeal has been filed with the clerk of the City. The Clerk of the City shall cause notice to be mailed to all affected persons (within 300 feet of the property boundaries) at least ten days prior to the hearing.
- D. 1. At the time and place set for the hearing, the City Council shall proceed to hear the testimony of the Health Officer and / or OWTS Administrator, the testimony of the owner or his representatives, and the testimony of other competent persons concerning condition upon which the action of the Health Officer and / or OWTS Administrator is based and other matters which

the City Council may deem pertinent. Any person affected may be present at such hearing, may be represented by council, may present testimony, and other witnesses. The hearing may be continued from time to time.

2. The Health Officer and / or OWTS Administrator may be represented by counsel. At the request of the Health Officer and / or OWTS Administrator, the City Attorney shall represent the Health Officer and / or OWTS Administrator.
- E. The City Council may upon the appeal either affirm the action of the Health Officer and / or OWTS Administrator or modify the Health Officer's / OWTS Administrator's action in whole or in part. The decision of the City Council upon on appeal shall be based upon the facts presented to it.

Section 8:11 – Severability

If any provision of this ordinance or any rule or determination made hereunder, or application hereof to any person, agency or circumstances is held invalid by a court of competent jurisdiction, the remainder of this ordinance and its application to any person, agency or circumstance shall not be affected thereby. The invalidity of any section or sections of this ordinance shall not affect the validity of the remainder of this ordinance.

PASSED AND ADOPTED by the City Council of the City of Trinidad, State of California, on **Wednesday, December 10, 2008**, by the following vote:

AYES:	Bhardwaj, Ratzlaff, Binnie, Fulkerson
NOES:	None
ABSTAIN:	Morgan
ABSENT:	None

* * * * *

AMENDED by the City Council of the City of Trinidad, State of California, on Wednesday, **February 10, 2010**, by the following vote:

First Reading of Amendment: Wednesday, February 10, 2010

Second Reading of Amendment: Wednesday, March 24, 2010

Attest:

Gabriel Adams
Trinidad City Clerk

Stan Binnie
Mayor